

Applicants hereby elect, with traverse, to prosecute the claims of Group I, directed to an isolated nucleic acid molecule comprising SEQ ID NO:1, which encodes an amino acid sequence set forth in SEQ ID NO:2, which includes claims 101-105. Applicants have not cancelled the claims drawn to the non-elected subject matter pending the Examiner's decision on the Applicants' traversal set forth below.

APPLICANTS' TRAVERSAL

For the following reasons, Applicants traverse the restriction of the claimed invention into 16 different groups:

First, Applicants respectfully submit that the Examiner does not provide an adequate justification for any restriction, let alone a restriction into 16 different groups. The Examiner states that "the Inventions lack the same or corresponding special technical features for following reasons: The Inventions are not linked by special technical feature." In other words, according to the Examiner the Inventions lack the same special technical features because the Inventions lack the same special technical features. Applicants respectfully submit that this argument is circular and does not rise to the level required for the justification of a restriction requirement.

Second, the Examiner states that "Several X references were cited in the International search report which demonstrate the lack of a special technical feature that unifying [sic] the Inventions" (Citations omitted.) Applicants respectfully traverse. Two of the X references, Zhou et al. and GenPept Database Accession No: AAD22960, in addition to both A references, are allegedly relevant to *all* of the pending claims, implying that there is a common special feature among all the pending claims. In addition, there is significant overlap of the claims to which the remaining X references are allegedly relevant.

The Examiner's reliance on the X references for issuing the restriction requirements becomes even more problematic when the X references are studied in detail. Applicants respectfully submit that these references are not relevant to the claimed invention, to wit:

- Zhou et al. (1998), although referenced with an X classification, has also been given a P classification since it was published on November 26, 1998, which is prior to the International filing date, but later than the earliest claimed priority date, i.e., August

27, 1998. Accordingly, since the Applicants rely on the earliest priority date, this document is not prior art to the invention.

- U.S.P. 5,721,113 and the articles by Andreoli et al. (1997) Boehert et al. (1998) and Chang et al. (1992) do not disclose the ELF5 amino acid and/or nucleic acid sequences of either murine or human species.
- The sequence disclosed in Figure 4 of Australian Patent Application No. 53663/98 and Figure 1B of European Patent Application No. 839,908 also do not disclose any of the ELF5 molecules disclosed and claimed.
- International Application No. WO 95/14773 and the articles by Gegonne et al. (1992) and Baht and Papas (1992) are limited to the disclosure of molecules which regulate Ets-1 expression and or functional activity. However, they do not disclose the regulation of ELF5 expression or functional activity.

More importantly, the text of the claims themselves suggest that the claims have common special technical features. For examples Groups I-VII and X are drawn to various nucleic acids and proteins of ELF5 or pharmaceutical compositions comprising the same, Groups VIII and IX are drawn to methods of modulating ELF5 expression, and Groups XIV-XVI are drawn to methods for detecting agents bind to, or modulate the activity of, ELF5. This is evidenced by the fact that the Examiner himself has put some of the same claims into two or more different groups.

Third, SEQ ID NO:1 is the long transcript of human ELF5 nucleic acid molecule whereas SEQ ID NO:3 is the short transcript of the same gene. However, the Examiner has put these two sequences in different restricted groups, i.e., Groups I and II, respectively. Applicants respectfully submit that the two transcripts of the same gene belong in the same invention group. Therefore, at the very least, Groups I and II should be combined.

For the reasons set forth above, Applicants respectfully request that the Examiner withdraw the restriction requirement and combine the 16 different restricted groups into a single group.

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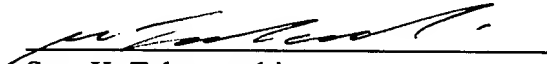
CONCLUSION

Applicants respectfully maintain that claims are patentable and request that they be passed to issue. Applicants have enclosed a check for \$720.00 to extend the period of response to Monday July 29, 2002, July 27, 2002 being a Saturday. If this fee is incorrect, please charge or credit Deposit Account No. 11-1410. Applicants invite the Examiner to call the undersigned if any issues may be resolved through a telephonic conversation.

Respectfully submitted,

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AMEND

VERSION WITH MARKINGS TO SHOW CHANGES MADE

102. (ONCE AMENDED) An isolated nucleic acid molecule or derivative, homologue or analogue thereof comprising a nucleotide sequence encoding, or a nucleotide sequence complementary to a nucleotide sequence encoding, an amino acid sequence substantially as set forth in [~~400~~>2] SEQ ID NO:2 or a derivative homologue or mimetic thereof or having at least about 45% or greater similarity to at least 10 contiguous amino acids in [~~400~~>2] SEQ ID NO:2.

103. (ONCE AMENDED) An isolated nucleic acid molecule or derivative, homologue or analogue thereof comprising a nucleotide sequence substantially as set forth in [~~400~~>2] SEQ ID NO:1 or a derivative or homologue thereof capable of hybridizing to [~~400~~>1] SEQ ID NO:1 under low stringency conditions.

104. (ONCE AMENDED) An isolated nucleic acid molecule according to Claim 103 which further encodes an amino acid sequence substantially as set forth in [~~400~~>2] SEQ ID NO:2 or a sequence having at least about 45% similarity to at least 10 contiguous amino acids in [~~400~~>2] SEQ ID NO:2.

105. (ONCE AMENDED) An isolated nucleic acid molecule according to Claim 102 substantially as set forth in [~~400~~>1] SEQ ID NO:1.

106. (ONCE AMENDED) An isolated nucleic acid molecule or derivative, homologue or analogue thereof comprising a nucleotide sequence encoding, or a nucleotide sequence complementary to a nucleotide sequence encoding, an amino acid sequence substantially as set forth in [~~400~~>4] SEQ ID NO:4 or a derivative, homologue or mimetic thereof or having at least about 45% or greater similarity to at least 10 contiguous amino acids in [~~400~~>4] SEQ ID NO:4.

107. (ONCE AMENDED) An isolated nucleic acid molecule or derivative, homologue or analogue thereof comprising a nucleotide sequence substantially as set forth in [~~400~~>3] SEQ ID NO:3 or a derivative or homologue thereof capable of hybridizing to [~~400~~>3] SEQ ID NO:3 under low stringency conditions.

108. (ONCE AMENDED) An isolated nucleic acid molecule according to Claim 107 which further encodes an amino acid sequence substantially as set forth in [~~400~~>4]

SEQ ID NO:4 or a sequence having at least about 45% similarity to at least 10 contiguous amino acids in [<400>4] SEQ ID NO:4.

109. (ONCE AMENDED) An isolated nucleic acid molecule according to Claim 106 substantially as set forth in [<400>3] SEQ ID NO:3.

110. (ONCE AMENDED) An isolated nucleic acid molecule or derivative, homologue or analogue thereof comprising a nucleotide sequence encoding, or a nucleotide sequence complementary to a nucleotide sequence encoding, an amino acid sequence substantially as set forth in [<400>7] SEQ ID NO:7 or a derivative, homologue or mimetic thereof or having at least about 45% or greater similarity to at least 10 contiguous amino acids in [<400>7] SEQ ID NO:7.

111. (ONCE AMENDED) An isolated nucleic acid molecule or derivative, homologue or analogue thereof comprising a nucleotide sequence substantially as set forth in one of [<400>5] SEQ ID NO:5 or [<400>6] SEQ ID NO:6 or a derivative or homologue thereof capable of hybridizing to one of [<400>5] SEQ ID NO:5 or [<400>6] SEQ ID NO:6 or under low stringency conditions.

112. (ONCE AMENDED) An isolated nucleic acid molecule according to Claim 111 which further encodes an amino acid sequence corresponding to an amino acid sequence set forth in [<400>7] SEQ ID NO:7 or a sequence having at least about 45% similarity to at least 10 contiguous amino acids in [<400>7] SEQ ID NO:7.

113. (ONCE AMENDED) An isolated nucleic acid molecule according to Claim 110 substantially as set forth in [<400>5] SEQ ID NO:5 or [<400>6] SEQ ID NO:6.

115. (ONCE AMENDED) An isolated protein comprising an amino acid sequence substantially as set forth in [<400>2] SEQ ID NO:2 or a derivative, homologue or mimetic thereof or a sequence having at least about 45% similarity to at least 10 contiguous amino acids in [<400>2] SEQ ID NO:2 or a derivative, homologue, analogue, chemical equivalent or mimetic of said protein.

116. (ONCE AMENDED) An isolated protein according to Claim 115 encoded by a nucleotide sequence substantially as set forth in [<400>1] SEQ ID NO:1 or a derivative, homologue or analogue thereof or capable of hybridizing to [<400>1] SEQ ID NO:1 under low

stringency conditions or a derivative, homologue, analogue, chemical equivalent or mimetic of said protein.

117. (ONCE AMENDED) An isolated protein according to Claim 115 substantially as set forth in [~~400~~>2] SEQ ID NO:2.

118. (ONCE AMENDED) An isolated protein having an amino acid sequence substantially as set forth in [~~400~~>4] SEQ ID NO:4 or a derivative, homologue or mimetic thereof or a sequence having at least about 45% similarity to at least 10 contiguous amino acids in [~~400~~>4] SEQ ID NO:4 or a derivative, homologue, analogue, chemical equivalent or mimetic of said protein.

119. (ONCE AMENDED) An isolated protein according to Claim 118 encoded by a nucleotide sequence substantially as set forth in [~~400~~>3] SEQ ID NO:3 or a derivative, homologue or mimetic thereof or capable of hybridizing to [~~400~~>3] SEQ ID NO:3 under low stringency conditions or a derivative, homologue, analogue, chemical equivalent or mimetic of said protein.

120. (ONCE AMENDED) An isolated protein according to Claim 118 substantially as set forth in [~~400~~>4] SEQ ID NO:4.

121. (ONCE AMENDED) An isolated protein comprising an amino acid sequence substantially as set forth in [~~400~~>7] SEQ ID NO:7 or a derivative, homologue or mimetic thereof or a sequence having at least about 45% similarity to at least 10 contiguous amino acids in [~~400~~>7] SEQ ID NO:7 or a derivative, homologue, analogue, chemical equivalent or mimetic of said protein.

122. (ONCE AMENDED) An isolated protein according to Claim 121 encoded by a nucleotide sequence substantially as set forth in one of [~~400~~>5] SEQ ID NO:5 or [~~400~~>6] SEQ ID NO:6 or a derivative, homologue or mimetic thereof or capable of hybridizing to one of [~~400~~>5] SEQ ID NO:5 or [~~400~~>6] SEQ ID NO:6 under low stringency conditions or a derivative, homologue, analogue, chemical equivalent or mimetic of said protein.

123. (ONCE AMENDED) An isolated protein according to Claim 121 substantially as set forth in [~~400~~>7] SEQ ID NO:7.